

## *Food Safety and Product Liability*

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**What are the incentives that arise from food poisoning cases in the U.S. legal system? Evidence from jury verdicts provide data.**

**T**his paper focuses on the U.S. product liability system for food poisoning cases and makes six key points.

- First, current legal incentives to produce safer food are limited, though slightly stronger in outbreak situations and in markets where foodborne illness can be more easily traced to individual firms. It appears that less than 0.01% of cases are litigated and even fewer are paid compensation.
- Second, even if potential plaintiffs can overcome the high information and transaction costs necessary to file lawsuits, monetary compensation provides limited incentives to pursue litigation. Firms paid compensation in 56% percent of the 294 cases examined in this study and the median compensation was \$2,000 before legal fees.
- Third, indirect incentives for firms may be important and deserve more research. For example, firms may be influenced by costly settlements and decisions against other firms in the same industry.
- Fourth, confidential settlements, health insurance, and product liability insurance distort legal incentives to produce safer food.
- Fifth, the ambiguity about whether microbial contamination is “natural” or an “adulterant” hinders the legal system from effectively dealing with food safety issues.
- Sixth, a brief comparison of the incentives from U.S. and English legal systems suggests that more research is needed to understand the strengths, weaknesses, and relative impact of each country’s legal system on the incentives to produce safer food.

